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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

MAURYCE ANTHONY LIGGINS,

Defendant and Appellant.

C059094

(Super.Ct.No.
07F00398)

A jury convicted defendant Mauryce Anthony Liggins of discharging a firearm at an inhabited dwelling (count one-- Pen. Code, § 246; further section references are to the Penal Code unless otherwise specified), unlawful possession of a firearm (count two--§ 12021, subd. (c)(1)), and three counts of endangering a child (counts three through five--§ 273a, subd. (a)). The jury found that he personally used a firearm (§ 12022.5, subd. (a)(1)) in the commission of counts three through five, and that he committed counts one and three through

five for the benefit of the Nogales Crips, a criminal street gang (§ 186.22, subd. (b)(1)).

Defendant was sentenced to prison for a determinate term of 10 years eight months (the upper term of six years on count three, plus four years for firearm use enhancement, plus eight months on count two), followed by an indeterminate term of 15 years to life. Concurrent terms of four years were imposed on counts four and five, plus four years for the firearm use. Ten-year enhancements for street gang participation, imposed on counts three through five, were stayed pursuant to section 654.¹

On appeal, defendant contends there was insufficient evidence that counts one and three through five were committed for benefit of the Nogales Crips, insufficient evidence that the circumstances of the felony child endangerment counts were likely to produce great bodily injury or death, and insufficient evidence that posttraumatic stress disorder causes mental suffering. He also claims counts two through five, and the firearm enhancements on counts three through five, must be stayed pursuant to section 654, and the abstract of judgment must be corrected to properly reflect the court's judgment. The People concede this last point. We shall affirm the judgment and order correction of the abstract.

¹ As to the street gang enhancement in count three, the trial court stated: "I am going to stay it pursuant to [section] 654 in that it is the same gun use that is alleged in Count 2." Defendant correctly points out that the reference should have been to count one, not count two; the former alleged *shooting* a firearm, while the latter alleged its mere *possession*.

FACTS

Prosecution Case-In-Chief

On January 10, 2007, Lamont West, who was one of the toughest members of the Nogales Crips street gang, got into an argument with Paul Bell (known as P-Loc) and Kenyatta Hudson (known as Old Man). Like West, Bell and Hudson were members of the gang. The argument started when West asked Bell who his "big homey" (leader of the gang) was, and Bell replied Hudson rather than West.

The next afternoon, West and defendant, who had a gun, drove to Bell's house. In the van with them were Donita Brooks (West's girlfriend), Brooks's three children (ages 6, 4, and 3), and Laqresha Townsend (Brooks's cousin). West was the driver. Brooks sat in the front passenger seat. Defendant and the children were on the floor where the second row seats had been removed. Townsend sat in the third row of seats.

Before the group began driving to Bell's house, Townsend heard West and defendant discuss West's argument with Bell the previous day. In Townsend's words, defendant said "they could handle it . . . right now or right then."

When they drove by Bell's residence, defendant (who was an associate of the Crips gang in 2001) and West fired gunshots at the house. The children in the van were scared and crying.

Officers John-Steven Asvitt and Mike Hight--who happened to be nearby--heard the shots and stopped the van. Townsend later said

that, as the officers arrived, West put his gun in the glove box and defendant placed his gun under the rear passenger seat.²

After ordering everyone out of the vehicle, officers found a loaded nine-millimeter semiautomatic handgun in the glove box and a .40-caliber semiautomatic pistol, possibly unloaded, under the rear passenger seat. The nine-millimeter handgun had one bullet in the chamber and eight rounds in a magazine that could hold 15 rounds. Two shell casings were recovered from the rear passenger area, and one casing was recovered from the roadway underneath the driver's seat. Defendant's fingerprints were discovered on the magazine for the .40-caliber gun.

A search of West's home revealed nine-millimeter ammunition and photographs of West and others displaying gang-related hand signs and wearing blue clothing, the color worn by Crips gang members.

Detective Justin Johnson, an expert on the Nogales Gangster Crips, testified as follows:

The gang's primary activities included attempted murders, assaults with deadly weapons, robberies, narcotics sales, and intimidating witnesses.

Problems can arise among members of the same gang regarding money, women, or "whatever [a member] feels was disrespect[ful]"

² With respect to count two, the parties stipulated that, on or about September 6, 2005, defendant was convicted of a crime that prohibits him from possessing a firearm.

to him; it could include anything the member feels a need "to act out on. That could be up to [him]."

Gang culture requires that a member who has been treated in a disrespectful manner must impose discipline on the person who was disrespectful. If no such discipline is imposed, the victim of the disrespect could lose the respect of other gang members and be perceived as "soft." This information travels throughout the community and the gang culture. Members of other gangs "would look at him as being weak or losing some kind of status within their own gang."

Telling a gang member that someone other than he is the leader would be perceived by the gang member as a disrespectful remark. Committing a violent act, such as a drive-by shooting, against the person who made the remark would send the message "he shouldn't do that [be disrespectful]."

Typically, gang activities are committed only by gang members or associates. A "member" is "somebody who is . . . willing" to claim membership in the gang and "is willing to represent it"; whereas, an "associate" is "usually somebody who just hangs around just likes to be around the gang itself. They know[] everybody from . . . growing up in the neighborhood."

When a gang member feels another member has been disrespectful and must be disciplined, the member would allow only those he trusts to participate in the shooting.

Drive-by shootings are inherently dangerous not only to the intended targets and innocent bystanders who might get hit, but also to the shooters because of the risk of immediate retaliation

by the targets, effectively creating "warfare on the streets." The risk of retaliation is greater if the drive-by shooting is committed on gang turf. And there is the risk of citizen or police response.

Terrah Tillman, an expert in early childhood development and trauma, testified as follows:

She was involved in the weekly treatment of the three children (D.T., Y.B., and Z.K.) who were in the van during the shooting at Bell's residence. The children, who had been removed from their mother's custody, were "extremely high in irritability, aggression, [and] disassociation;" they had nightmares and difficulty sleeping.

After a few days at the Children's Receiving Home of Sacramento, D.T. began sucking his thumb; whether he had done so prior to the incident was not known. Y.B. would "just check out" and rock herself; she would not respond when people called her name. Z.K. would rock herself and engage in bizarre behavior.

D.T. told Tillman the shooting upset him. Y.B. was more guarded; she would say she had not been afraid and would tease D.T. for having cried during the incident. Believing this was an "unhealthy" way to deal with stress, Tillman encouraged Y.B. to talk about her feelings. Z.K., the youngest child, talked "a lot about just violence in general, and threatening, and violent statements, and things like that."

Car rides triggered a change in the children's behavior; they acted out more aggressively and made inappropriate comments, demonstrating their anxiety while in the car. D.T. would change his tone of voice, be aggressive, hysterical, and non-compliant,

and start talking about shooting people. Y.B. would "check[] out" and "disassociat[e]" during car rides. Z.K. would change her tone of voice to a "tough mean demeanor," yell threats, and talk about gangs and guns.

Based on the severity of the children's symptoms, Tillman opined that they suffered from posttraumatic stress disorder (PTSD), which consists of symptoms associated with a traumatic or life-threatening event and can last from four weeks to a lifetime. Symptoms include hypervigilance, hyperactivity, increased motor activity, increased muscle tension, nightmares, dissociation, violence, reenactment, aggression, irritability, and regression. A PTSD diagnosis requires that the symptoms be "distressing to the client."

Tillman acknowledged the children came from a tough background, including prior Child Protective Services (CPS) intervention and possibly differing sorts of trauma throughout their lives. However, given "the amount that they were talking about the car ride and the shootings," the drive-by shooting on January 11, 2007, seemed to be a key factor in the PTSD diagnosis.

Defense

Lisa Perrine, Ph.D., an expert in clinical psychology, testified as follows:

Symptoms of PTSD in children include disorientation, agitation, anxiety, and aggression. In children, PTSD could be a response to a single event or it could be a "response to an accumulation of fairly traumatic events, or events that the child experiences as fairly

traumatic." A "full picture" is necessary before diagnosing a child with PTSD and recommending treatment.

She reviewed documents from the Children's Receiving Home of Sacramento, including documents from CPS, and observed no further research had been conducted into the degree of CPS involvement. Perrine noted that, during a discussion of the drive-by shooting, D.T. had mentioned an earlier incident in which his mother's live-in boyfriend had pointed a gun to the mother's head and had pulled the trigger. This was a traumatic event that could have led to symptoms of PTSD.

In Perrine's view, all three children were properly diagnosed with PTSD but there was no way of knowing whether the children had suffered from PTSD prior to the drive-by shooting.

DISCUSSION

I

Defendant contends the gang enhancements on counts one, three, four, and five are not supported by sufficient evidence and must be set aside. Specifically, he claims the shooting was done for personal reasons and not for the benefit of the Nogales Crips gang. (§ 186.22, subd. (b)(1).) We are not persuaded.

"On appeal, the test of legal sufficiency is whether there is substantial evidence, i.e., evidence from which a reasonable trier of fact could conclude that the prosecution sustained its burden of proof beyond a reasonable doubt. [Citations.] Evidence meeting this standard satisfies constitutional due process and reliability concerns. [Citations.] [¶] While the appellate court must determine that the supporting evidence is reasonable, inherently

credible, and of solid value, the court must review the evidence in the light most favorable to the prosecution, and must presume every fact the jury could reasonably have deduced from the evidence. [Citations.] Issues of witness credibility are for the jury. [Citations.]” (*People v. Boyer* (2006) 38 Cal.4th 412, 479-480.)

Section 186.22, subdivision (b)(1) states in pertinent part: “Except as provided in paragraphs (4) and (5), any person who is convicted of a felony committed *for the benefit of*, at the direction of, or in association with *any criminal street gang*, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall, upon conviction of that felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished [with a specified term].” (Italics added.)

From the premise that “[b]oth the victim (Paul Bell) and the perpetrator (West) were members of the same gang,” defendant argues “[t]his was not an inter-gang shooting done to enhance respect for the Nogales Crips; it was an intra-gang shooting. No benefit could possibly accrue to the gang as a group from this drive-by shooting.” The evidence establishes otherwise.

An expert testified that, when a gang member has been treated in a disrespectful manner, gang culture requires the member to “discipline” the person who treated the member disrespectfully. If no discipline is imposed, the gang member could lose the respect of other members of the gang and be perceived as “soft.” Such information travels throughout the community and the gang culture.

Members of other gangs "would look at him as being weak or losing some kind of status within their own gang."

Therefore, retaliation that directly preserves or enhances a person's status within his own gang indirectly preserves or enhances the person's status with other gangs as well. And, because a gang is the sum of its parts, the preservation of a gang member's status could also preserve the status of the gang itself. Conversely, if gang members allow rival gangs to perceive them as weak or of diminished status, the rivals predictably would view the gang itself as weakened or diminished. Thus, by defending his own status, West defended the status of his gang, the Nogales Crips. We presume the jury deduced this rather obvious fact from the evidence. (*People v. Boyer, supra*, 38 Cal.4th at pp. 479-480.) Defendant's argument that the gang expert's opinion was unreliable and violated due process lacks merit.³

Defendant responds that, even if West acted for the benefit of the Nogales Crips, there was no showing defendant was "in a gang." In his briefing, defendant describes the Nogales Crips as "an organization to which he did not even belong."

However, the gang expert testified that gang activities typically are committed only by members (those who claim membership

³ The gang expert testified based on his personal knowledge and experience with gangs, rather than from facts supplied by counsel. Thus, defendant's reliance on *People v. Gardeley* (1996) 14 Cal.4th 605, at page 618, for the proposition that hypothetical questions *posed by counsel* must be "rooted in facts shown by the evidence" is misplaced. It was not necessary for the expert to support his opinion with additional facts beyond those he had voiced.

in the gang and are "willing to represent it") or associates (those who "hang[] around" with the gang). Here, the evidence showed defendant planned the drive-by shooting with West and helped him carrying out the plan. Reasonable jurors could deduce from defendant's participation in the shooting that he was at least an associate of the Nogales Crips and that he intended to act in a manner benefitting the gang. Indeed, defendant had been indentified as an associate of the Crips gang in 2001.

Defendant next complains that application of a gang enhancement to the child endangerment counts "does not carry out the state[d] purposes of the STEP [Street Terrorism Enforcement and Prevention] Act." We disagree.

Section 186.21 includes a finding that California is "in a state of crisis which has been caused by violent street gangs whose members threaten, terrorize, and commit a multitude of crimes against the peaceful citizens of their neighborhoods."

Defendant does not dispute that the children in the van were peaceful citizens, unwittingly in the neighborhood, and entitled to the STEP Act's protection from gang violence. Instead of receiving that protection, they were driven to the scene where defendant and West opened fire on a residence. This was inherently dangerous because, as the gang expert explained, the target gang member could have retaliated against the shooters, effectively creating "warfare on the streets"; and there was the risk of a dangerous response by citizen or police. Imposing the enhancement furthers the purpose of protecting the children from gang violence.

Defendant asserts there are no reported cases applying gang enhancements to counts of child endangerment. However, he cites no case where the enhancement was refused or rejected when children were present at the scene of gang violence. The lack of similar cases simply reflects the exceptionally poor judgment shown by the perpetrators in this case, who elected to do a drive-by shooting from a van containing young children.

Defendant next claims there was insufficient evidence of the requisite specific intent. Section 186.22, subdivision (b)(1) requires "specific intent to promote, further, or assist in any criminal conduct by gang members." From evidence that defendant planned the drive-by shooting with gang member West, the jurors reasonably could conclude defendant had the specific intent to assist West in behavior that endangered the children. (See *People v. Leon* (2008) 161 Cal.App.4th 149, 162-163.) Contrary to defendant's argument, the STEP Act does not require specific intent to abuse or endanger the children.

The gang enhancements are supported by substantial evidence. (*People v. Boyer, supra*, 38 Cal.4th at pp. 479-480.)

II

Defendant contends that counts three through five are not supported by sufficient evidence of child endangerment. This is so, he argues, because "the circumstances or conditions surrounding the incident were not shown to be likely to produce great bodily harm or death." He is wrong.

Section 273a, subdivision (a) states in pertinent part: "Any person who, *under circumstances or conditions likely to produce*

great bodily harm or death, willfully causes or permits any child to suffer . . . unjustifiable . . . mental suffering, . . . shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years."

(Italics added.)

Defendant claims "[t]he danger of any return fire from the house was a speculative argument advanced by the prosecutor but devoid of any basis in the evidence." He overlooks the gang expert's testimony that drive-by shootings are inherently dangerous because the target could retaliate against shooters, effectively creating "warfare on the streets;" and danger could result from citizen or police response.

The jury evidently believed the gang expert's testimony on the danger of drive-by shootings; no contrary evidence was offered.

"To warrant the rejection of the statements given by a witness who has been believed by the [trier of fact], there must exist either a physical impossibility that they are true, or their falsity must be apparent without resorting to inferences or deductions. [Citations.] Conflicts and even testimony which is subject to justifiable suspicion do not justify the reversal of a judgment, for it is the exclusive province of the trial judge or jury to determine the credibility of a witness and the truth or falsity of the facts upon which a determination depends. [Citation.]" [Citation.]" (*People v. Barnes* (1986) 42 Cal.3d 284, 306.) Defendant has not attempted to show that the described danger was either physically impossible or false without resorting to inferences or deductions. He claims the danger was lessened because the van promptly left the

scene after the shooting; however, this simply means that the life-threatening danger was of a shortened duration. The statute sets no minimum period during which the danger must persist. Defendant has failed to show insufficiency of evidence to support the findings.

Defendant notes there was no evidence that shots from either gun actually hit the house or that anyone in the house fired back at the van. But the lack of direct hits to the target house does not render it unlikely that a gang member would recognize the sound of nearby gunfire and respond by returning fire. The statute does not require actual injury. (*People v. Lee* (1991) 234 Cal.App.3d 1214, 1220.)

In sum, counts three through five are supported by substantial evidence. (*People v. Boyer, supra*, 38 Cal.4th at pp. 479-480.) Thus, defendant's alternative contention--evidentiary insufficiency compels us to reduce counts three through five to misdemeanors--lacks merit.

III

Defendant contends counts three through five are not supported by sufficient evidence of child endangerment because a diagnosis of PTSD is insufficient to show "mental suffering" within the meaning of section 273a, subdivision (a). In his view, "mental suffering means something other than PTSD[,] which is a form of anxiety disorder which has a strong genetic component to it."

The claim that PTSD is an "anxiety disorder" with a "strong genetic component" is not supported by argument, citation of relevant authority, or record reference. (*Clark v. Burleigh* (1992) 4 Cal.4th 474, 481-482; *Troensegaard v. Silvercrest Industries*,

Inc. (1985) 175 Cal.App.3d 218, 228.) In any event, it fails on the merits.

Section 273a does not require that "mental suffering" consist of any particular psychiatric disorder. Regardless of whether a PTSD diagnosis is sufficient to show "mental suffering" within the meaning of the statute, defendant has not shown that the children's constellation of symptoms, set forth above, somehow falls short of "mental suffering."

Section 273a unambiguously requires infliction of unjustifiable physical pain or mental suffering, but not both. That prior cases involving mental suffering also involved what defendant terms "clear physical suffering" (citing *People v. Sargent* (1999) 19 Cal.4th 1206; see *id.* at p. 1210) does not mean that evidence of physical suffering is necessary for a section 273a conviction.

Defendant next contends the children's PTSD symptoms were never "positively connect[ed]" to the drive-by shooting. We disagree.

The evidence showed that car rides triggered a change in the children's behavior. During rides, all three children acted out more aggressively and made inappropriate comments, demonstrating their anxiety while in the car. An expert in early childhood development and trauma acknowledged the children came from a tough background, including prior CPS intervention and possibly differing sorts of trauma throughout their lives, but opined that the amount of their talking about the car ride and the drive-by shootings showed that the incident was a key factor in the PTSD diagnosis.

Defendant counters that the defense psychologist concluded the record was inadequate to determine whether the PTSD was related to

the drive-by shooting. However, the task of deciding which expert's opinion was more convincing belonged to the jury, not this court. Where, as here, the evidence reasonably justifies the finding of the trier of fact, the fact this evidence could also be reconciled with a contrary finding does not warrant reversal of the judgment. (*People v. Ceja* (1993) 4 Cal.4th 1134, 1139; *People v. Bunyard* (1988) 45 Cal.3d 1189, 1213; *People v. Bean* (1988) 46 Cal.3d 919, 932.)

IV

Defendant argues the determinate terms imposed on counts two through five and the firearm enhancements on counts three through five should have been stayed pursuant to section 654.

Counts One and Two

In defendant's view, the consecutive term of eight months for count two (unlawful possession of a firearm) must be stayed because he possessed the gun with the intent and objective of committing the drive-by shooting alleged in count one. Not so.

Section 654's proscription against double punishment applies to a "'course of conduct'" which "'comprises an indivisible transaction punishable under more than one statute The divisibility of a course of conduct depends upon the intent and objective of the actor, and if all the offenses are incident to one objective, the defendant may be punished for any one of them but not for more than one.'" [Citation.] 'The defendant's intent and objective are factual questions for the trial court; [to permit multiple punishments,] there must be evidence to support a finding the defendant formed a separate intent and objective for each offense

for which he was sentenced. [Citation.]' [Citation.]" (*People v. Coleman* (1989) 48 Cal.3d 112, 162; see *People v. Latimer* (1993) 5 Cal.4th 1203, 1208; see *People v. Williams* (2009) 170 Cal.App.4th 587, 645.)

"Whether a violation of section 12021, forbidding persons convicted of felonies from possessing firearms concealable upon the person, constitutes a divisible transaction from the offense in which he employs the weapon depends upon the facts and evidence of each individual case. Thus where the evidence shows a possession distinctly antecedent and separate from the primary offense, punishment on both crimes has been approved. On the other hand, where the evidence shows a possession only in conjunction with the primary offense, then punishment for the illegal possession of the firearm has been held to be improper where it is the lesser offense." [Citations.]" (*People v. Jones* (2002) 103 Cal.App.4th 1139, 1143-1144; fn. omitted.)

Here, the evidence showed defendant had been personally armed with the gun prior to the drive-by shooting. Townsend told Officer Sample that she saw defendant with the gun at a house before the discussion arose about Bell's disrespectful comment to West the day before. Defendant had the gun in his waistband. At some point, he "show[ed] it off" to the others and placed it on a table. During the visit, defendant spoke with West about West's dispute with Bell. Just prior to the drive-by shooting, defendant said they "could handle it" "right now or right then."

This evidence supports a finding that defendant armed himself with the gun before the group decided to do the drive-by shooting.

In fact, the most plausible inference is that he had obtained the gun even before he learned that there was some reason to do the shooting. Consequently, section 654 does not preclude multiple punishments on counts one and two. (*People v. Jones, supra*, 103 Cal.App.4th at pp. 1143-1144.) Defendant's argument that "the intent of the possession was solely to do the drive-by shooting" disregards this evidence.

People v. Ferguson (1969) 1 Cal.App.3d 68, on which defendant relies, involved a culprit who kidnapped a married couple in order to watch them engage in sexual intercourse. When the culprit became dissatisfied with the couple's performance, he raped the wife and later transported only her to a remote location where he performed additional sexual acts upon her. (*Id.* at pp. 72-75.) *Ferguson* upheld a finding that the culprit's intent when he first kidnapped the couple was divisible from when he later committed sex crimes against only the wife. (*Ibid.*) The case supports our conclusion that, in this case, defendant had divisible intents in first possessing the gun and later shooting at Bell's house.

Counts One and Three through Five

Defendant contends the principal term of six years for count three and the concurrent terms of four years on counts four and five must be stayed because they are the same course of conduct that underlies count one. Again, we disagree.

"The purpose of the protection against multiple punishment is to insure that the defendant's punishment will be commensurate with his criminal liability. A defendant who commits an act of violence with the intent to harm more than one person or *by a means likely*

to cause harm to several persons is more culpable than a defendant who harms only one person. For example, a defendant who chooses a means of murder that places a planeload of passengers in danger, or results in injury to many persons, is properly subject to greater punishment than a defendant who chooses a means that harms only a single person. This distinction between an act of violence against the person that violates more than one statute and such an act that harms more than one person is well settled." (*Neal v. State of California* (1960) 55 Cal.2d 11, 20, italics added; see *People v. Deloza* (1998) 18 Cal.4th 585, 592; *People v. Miller* (1977) 18 Cal.3d 873, 885.)

Even if defendant intended his act of violence to injure or scare only Bell, he chose to do so "by a means likely to cause harm to several persons," including the children in the van. (*Neal v. State of California, supra*, 55 Cal.2d at p. 20; cf. *In re Sheridan* (1964) 230 Cal.App.2d 365, 371-374.) Defendant does not dispute that he is more culpable than if he and West had chosen to frighten Bell by shooting from a van containing only the two of them.

In *People v. Masters* (1987) 195 Cal.App.3d 1124 (hereafter *Masters*), the culprit shot at multiple gang members in a car. Because his violent actions were performed in a way likely to cause harm to all three occupants, the section 654 proscription against multiple punishment arising from an indivisible course of conduct did not apply. (*Id.* at pp. 1127-1128.) The causal chain in this case is one link longer than in *Masters*. The children in Brooks's car were endangered in a physical sense (as opposed to emotional harm), not by defendant's own gunshots, but by gunfire that could

have emanated from the target gang member's house in retaliation for what defendant and West did. In either case, gunfire or the prospect of gunfire at an occupied car would endanger its multiple occupants. Section 654 does not require staying the sentences on counts three through five.

Firearm Enhancements on Counts Three through Five

Defendant claims that the firearm enhancements (§ 12022.5, subd. (a)) on count three (a consecutive term of four years), count four (a concurrent term of four years), and count five (a concurrent term of four years), must be stayed because the firearm use involved in each enhancement was "the exact same act" as was the count one shooting at an inhabited dwelling. We disagree.

The victim of the count one shooting was Bell. The victims of counts three through five were the children in the van. By shooting at Bell from the van containing the children, defendant committed an act of violence "by a means likely to cause harm to several persons." (*Neal v. State of California, supra*, 55 Cal.2d at p. 20.) Accordingly, section 654 did not preclude the firearm enhancements on counts three through five.

V

Defendant contends, and the People concede, the abstract of judgment must be corrected to reflect that gang enhancements (§ 186.22, subd. (b)(1)) on counts four and five were imposed and stayed. The abstract correctly reflects the enhancement on count three, but does not reflect the identical enhancements on counts four and five.

We also note the firearm enhancement on count three is listed erroneously as "PC 12022.5(a)(1)," a nonexistent subdivision. The correct listing is Penal Code section 12022.5, subdivision (a).

DISPOSITION

The judgment is affirmed. The trial court is directed to correct the abstract of judgment to reflect that section 186.22, subdivision (b)(1) enhancements on counts four and five were imposed and stayed, and that a section 12022.5, subdivision (a) enhancement was imposed on count three. The court is further directed to send a certified copy of the corrected abstract to the Department of Corrections and Rehabilitation.

SCOTLAND, P. J.

We concur:

NICHOLSON, J.

ROBIE, J.